

**REPORT OF THE AUDIT OF THE
BREATHITT COUNTY
SHERIFF'S SETTLEMENT - 2007 UNMINED COAL TAXES**

**For The Period
September 6, 2007 Through October 21, 2008**



**CRIT LUALLEN
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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE BREATHITT COUNTY SHERIFF'S SETTLEMENT - 2007 UNMINED COAL TAXES

**For The Period
September 6, 2007 Through October 21, 2008**

The Auditor of Public Accounts has completed the audit of the Sheriff's Settlement - 2007 Unmined Coal Taxes for the Breathitt County Sheriff for the period September 6, 2007 through October 21, 2008. We have issued an unqualified opinion on the financial statement taken as a whole. Based upon the audit work performed, the financial statement is presented fairly in all material respects.

Financial Condition:

The Sheriff collected taxes of \$585,987 for the districts for 2007 unmined coal taxes, retaining commissions of \$24,196 to operate the Sheriff's office. The Sheriff distributed taxes of \$562,672 to the districts for 2007 unmined coal taxes. Refunds of \$881 are due to the Sheriff from the taxing districts.

Report Comments:

- The Sheriff Has A Deficit Of \$926
- The Sheriff Should Ensure All Receipts Are Deposited
- The Sheriff's Office Lacks Adequate Segregation Of Duties

Deposits:

The Sheriff's deposits were insured and collateralized by bank securities.

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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

To the People of Kentucky

Honorable Steven L. Beshear, Governor

Jonathan Miller, Secretary

Finance and Administration Cabinet

Honorable Harvey Jason Richardson, Breathitt County Judge/Executive

Honorable Ray Clemons, Breathitt County Sheriff

Members of the Breathitt County Fiscal Court

Independent Auditor's Report

We have audited the Breathitt County Sheriff's Settlement - 2007 Unmined Coal Taxes for the period September 6, 2007 through October 21, 2008. This tax settlement is the responsibility of the Breathitt County Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for Sheriff's Tax Settlements issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the Sheriff's office prepares the financial statement on a prescribed basis of accounting that demonstrates compliance with the modified cash basis, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the accompanying financial statement referred to above presents fairly, in all material respects, the Breathitt County Sheriff's Unmined Coal Taxes charged, credited, and paid for the period September 6, 2007 through October 21, 2008, in conformity with the modified cash basis of accounting.

Our audit was made for the purpose of forming an opinion on the financial statement taken as a whole. The schedule listed in the table of contents is presented for purposes of additional analysis and is not a required part of the financial statement. Such information has been subjected to the auditing procedures applied in the audit of the financial statement and, in our opinion, is fairly stated in all material respects in relation to the financial statement taken as a whole.



To the People of Kentucky
Honorable Steven L. Beshear, Governor
Jonathan Miller, Secretary
Finance and Administration Cabinet
Honorable Harvey Jason Richardson, Breathitt County Judge/Executive
Honorable Ray Clemons, Breathitt County Sheriff
Members of the Breathitt County Fiscal Court

In accordance with Government Auditing Standards, we have also issued our report dated September 11, 2009 on our consideration of the Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.

Based on the results of our audit, we present the accompanying comments and recommendations, included herein, which discusses the following report comments:

- The Sheriff Has A Deficit Of \$926
- The Sheriff Should Ensure All Receipts Are Deposited
- The Sheriff's Office Lacks Adequate Segregation Of Duties

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", written in a cursive style.

Crit Luallen
Auditor of Public Accounts

September 11, 2009

BREATHITT COUNTY
RAY CLEMONS, SHERIFF
SHERIFF'S SETTLEMENT - 2007 UNMINED COAL TAXES

For The Period September 6, 2007 Through October 21, 2008

<u>Charges</u>	<u>County Taxes</u>	<u>Special Taxing Districts</u>	<u>School Taxes</u>	<u>State Taxes</u>
Real Estate	\$ 66,012	\$ 159,591	\$ 295,243	\$ 89,951
Unmined Coal - 2003 Taxes	201	329	794	259
Unmined Coal - 2004 Taxes	203	339	794	256
Penalties	105	267	469	143
	<hr/>	<hr/>	<hr/>	<hr/>
Gross Chargeable to Sheriff	66,521	160,526	297,300	90,609
	<hr/>	<hr/>	<hr/>	<hr/>
<u>Credits</u>				
Exonerations	555	1,341	2,484	757
Discounts	1,112	2,681	4,971	1,514
Delinquents:				
Real Estate	1,465	3,538	6,554	1,997
	<hr/>	<hr/>	<hr/>	<hr/>
Total Credits	3,132	7,560	14,009	4,268
	<hr/>	<hr/>	<hr/>	<hr/>
Taxes Collected	63,389	152,966	283,291	86,341
Less: Commissions *	2,694	6,500	11,332	3,670
	<hr/>	<hr/>	<hr/>	<hr/>
Taxes Due	60,695	146,466	271,959	82,671
Taxes Paid	60,798	146,695	272,285	82,894
	<hr/>	<hr/>	<hr/>	<hr/>
Refunds Due Sheriff		**		
as of Completion of Audit	\$ (103)	\$ (229)	\$ (326)	\$ (223)
	<hr/>	<hr/>	<hr/>	<hr/>

* Commissions:

 4.25% on \$ 302,696

 4% on 283,291

** Special Taxing Districts:

 Library District \$ (73)

 Health District (90)

 Extension District (51)

 Soil Conservation (15)

Refunds Due Sheriff \$ (229)

The accompanying notes are an integral part of this financial statement.

BREATHITT COUNTY
NOTES TO FINANCIAL STATEMENT

October 21, 2008

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

The Sheriff's office tax collection duties are limited to acting as an agent for assessed property owners and taxing districts. A fund is used to account for the collection and distribution of taxes. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

B. Basis of Accounting

The financial statement has been prepared on a modified cash basis of accounting. Basis of accounting refers to when charges, credits, and taxes paid are reported in the settlement statement. It relates to the timing of measurements regardless of the measurement focus.

Charges are sources of revenue which are recognized in the tax period in which they become available and measurable. Credits are reductions of revenue which are recognized when there is proper authorization. Taxes paid are uses of revenue which are recognized when distributions are made to the taxing districts and others.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

Note 2. Deposits

The Breathitt County Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

BREATHITT COUNTY
NOTES TO FINANCIAL STATEMENT
October 21, 2008
(Continued)

Note 2. Deposits (Continued)

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the Sheriff's deposits may not be returned. The Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of October 21, 2008, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

Note 3. Tax Collection Period

The tangible property tax assessments were levied as of January 1, 2007. Property taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was February 28, 2008 through October 21, 2008.

Note 4. Interest Income

The Breathitt County Sheriff earned \$56 as interest income on 2007 unmined coal taxes. The Sheriff distributed the appropriate amount to the school district as required by statute, and the remainder was used to operate the Sheriff's office.

Note 5. Sheriff's 10% Add-On Fee

The Breathitt County Sheriff collected \$149 of 10% add-on fees allowed by KRS 134.430(3). This amount was used to operate the Sheriff's office. As of September 11, 2009, the Sheriff owed \$149 in 10% add-on fees to his fee account.

Note 6. Advertising Costs And Fees

The Breathitt County Sheriff collected \$50 of advertising fees allowed by KRS 424.330(1) and KRS 134.440(2). The Sheriff distributed the advertising costs to the county as required by statute, and the advertising fees were used to operate the Sheriff's office. As of September 11, 2009, the Sheriff owed \$25 in advertising fees to his fee account.

BREATHITT COUNTY
RAY CLEMONS, SHERIFF
SCHEDULE OF EXCESS OF LIABILITIES OVER ASSETS

For The Period September 6, 2007 Through October 21, 2008

Assets

Cash in Bank (All Tax Accounts)	\$ 4,507
Deposits in Transit	1
Receivables:	
State	223
County	103
School	326
Library	73
Health	90
Extension	51
Soil conservation	15
Commissions Due from 2009 Fee	64
	<hr/>
Total Assets	5,453

Liabilities

Paid Obligations-	
Outstanding Checks	4,479
Unpaid Obligations-	
Refunds Due Taxpayers	\$ 1,624
Add-ons	149
Due 2009 Fee Account for Payment Made	102
Advertising Fees Due Sheriff's Fee Account	25
	<hr/>
Total Unpaid Obligations	1,900
	<hr/>
Total Liabilities	6,379
	<hr/>
Total Fund Deficit as of October 21, 2008	\$ (926)

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON
COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Harvey Jason Richardson, Breathitt County Judge/Executive
Honorable Ray Clemons, Breathitt County Sheriff
Members of the Breathitt County Fiscal Court

**Report On Internal Control Over Financial Reporting And On
Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards**

We have audited the Breathitt County Sheriff's Settlement - 2007 Unmined Coal Taxes for the period September 6, 2007 through October 21, 2008, and have issued our report thereon dated September 11, 2009. The Sheriff prepares his financial statement in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Breathitt County Sheriff's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Breathitt County Sheriff's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Breathitt County Sheriff's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However as discussed below, we identified a certain deficiency in internal control over financial reporting that we consider to be a significant deficiency.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the modified cash basis of accounting such that there is more than a remote likelihood that a misstatement of the entity's financial statement that is more than inconsequential will not be prevented or detected by the entity's internal control over financial reporting. We consider the deficiency described in the accompanying comments and recommendations to be a significant deficiency in internal control over financial reporting.

- The Sheriff's Office Lacks Adequate Segregation Of Duties



Report On Internal Control Over Financial Reporting And On
Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Internal Control Over Financial Reporting (Continued)

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statement will not be prevented or detected by the entity's internal control. Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we consider the significant deficiency described above to be a material weakness.

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Breathitt County Sheriff's Settlement - 2007 Unmined Coal Taxes for the period September 6, 2007 through October 21, 2008, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations.

- The Sheriff Has A Deficit Of \$926
- The Sheriff Should Ensure All Receipts Are Deposited

The Breathitt County Sheriff's responses to the findings identified in our audit are included in the accompanying comments and recommendations. We did not audit the Sheriff's responses and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of management, the Breathitt County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

September 11, 2009

COMMENTS AND RECOMMENDATIONS

BREATHITT COUNTY
RAY CLEMONS, SHERIFF
COMMENTS AND RECOMMENDATIONS

For The Period September 6, 2007 Through October 21, 2008

STATE LAWS AND REGULATIONS:

The Sheriff Has A Deficit Of \$926

As of October 21, 2008, the Sheriff had a deficit of \$926 in his 2007 unmined coal tax account. This deficit is due to undeposited receipts noted in the 2007 regular tax settlement audit of \$545, which is described in the next comment, and unidentified undeposited receipts of \$381. We recommend the Sheriff eliminate the deficit of \$926 in his tax account. We will refer this matter to the Attorney General for further investigation.

Sheriff's Response: OK.

The Sheriff Should Ensure All Receipts Are Deposited

KRS 134.140 directs the Sheriff to deposit taxes collected and KRS 134.170 requires the Sheriff to keep a record of taxes collected. During the 2007 property tax settlement, we noted 2 unmined coal tax bills totaling \$545 marked paid for which we could not confirm a corresponding deposit into the tax account. These 2 tax bills were voided shortly after the original transactions. Paid cash receipts were provided by the taxpayer. No evidence was found that these collections were deposited into the tax account. These 2 unmined coal tax bills were included in the amount of tax bills paid without a corresponding deposit during the 2007 property tax audit. We recommend the Sheriff deposit all taxes collected and maintain accurate and complete record of tax collections.

Sheriff's Response: OK.

INTERNAL CONTROL - SIGNIFICANT DEFICIENCY AND MATERIAL WEAKNESS:

The Sheriff's Office Lacks Adequate Segregation Of Duties

The Sheriff's office lacks adequate segregation of duties due to the responsibilities of recording, depositing, receiving, and reconciling cash being delegated to the same individual. The functions of receiving, recording, depositing and reconciling cash should be separated whenever possible in order to decrease the risk that errors, misstatements, and/or fraud will occur and go undetected. Since only one person performs most of these functions, there is no assurance that financial transactions are accurate, complete, and free of error/misstatement. We recommend the Sheriff segregate the duties of recording, depositing, and reconciling cash or implement and document compensating controls to offset this control deficiency. Examples of compensating controls include: the Sheriff comparing daily checkout sheet to the receipts ledger and bank deposit, reviewing bank reconciliations for accuracy, performing surprise cash counts, reviewing invoices prior to payment, and reviewing all financial reports. The Sheriff could document his review process by initialing reports and supporting documentation.

Sheriff's Response: Due to budget restrictions, additional staff is not possible at this time.

Auditor's Reply: The compensating controls recommended above, would not require additional staff. The recommended compensating controls suggest the Sheriff personally review and compare the amounts per the checkout sheets, ledgers, reconciliations, and reports. Implementing and documenting these and other compensating internal controls are important to help prevent and detect any future errors, misstatements, and/or fraud.

